

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

REXFORD FUNDING, LLC,)	
)	
Plaintiff,)	8:09CV224
)	
vs.)	ORDER
)	
SCOTT W. SCHNEIDER, INC.,)	
SCOTT W. SCHNEIDER, and)	
B4 GRAIN, INC.,)	
)	
Defendants.)	

This matter is before the court sua sponte and pursuant to [NECivR 41.2](#), which states in pertinent part: "At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution." Further, [Fed. R. Civ. P. 4\(m\)](#) establishes a 120-day time limit for service of process on the defendant in a civil case, absent a showing of good cause.

In this case the complaint was filed on July 6, 2009. See [Filing No. 1](#). Accordingly, the deadline for service of process expired **on or about November 3, 2009**. The plaintiff sought and received summonses for each defendant. However, there is evidence of service upon B4 Grain, Inc., only. See [Filing No. 10](#). The plaintiff states it is having difficulty serving the defendants Scott W. Schneider, Inc. and Scott W. Schneider and the plaintiff may "seek leave in the near future" to serve by publication. See [Filing No. 18](#); [Filing No. 20](#). Nonetheless, the plaintiff has not timely sought additional time for service. Therefore, the action must be dismissed against the unserved defendants unless the plaintiff takes diligent efforts to serve these defendants. Accordingly,

IT IS ORDERED:

The plaintiff shall show cause why this case should not be dismissed, as to the defendants Scott W. Schneider, Inc. and Scott W. Schneider, for failure to prosecute, electronically file proof of service, or move to serve by publication **on or before December 2, 2009**.

Dated this 17th day of November, 2009.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge